

**CALIFORNIA ENERGY COMMISSION**

1516 Ninth Street Sacramento, California 95814

Main website: [www.energy.ca.gov](http://www.energy.ca.gov)



**NOTICE OF COMMISSION ADOPTION HEARING FOR  
APPLIANCE EFFICIENCY STANDARDS  
ENFORCEMENT REGULATIONS**

**NOTICE OF AVAILABILITY  
15-DAY LANGUAGE AMENDING PROPOSED APPLIANCE  
ENFORCEMENT REGULATIONS  
ADDENDUM TO INITIAL STATEMENT OF REASONS**

**California Code of Regulations  
Title 20, Division 2, Chapter 4, Article 4, Section 1609**

**CALIFORNIA ENERGY COMMISSION  
Docket No. 12-AAER-1**

**April 24, 2015**

**INTRODUCTION**

The California Energy Commission (Energy Commission) will hold a public hearing for consideration and possible adoption of the revisions to the regulation proposed as Section 1609 of Title 20 of the California Code of Regulations ("Section 1609"), establishing an administrative enforcement process for the *Appliance Efficiency Regulations* set forth in Title 20, Section 1601 *et seq.* of the California Code of Regulations.

Pursuant to Government Code section 11346.8(c), the revised Section 1609 will be made available to the public for at least 15 days before adoption by the Energy Commission. An addendum to the Initial Statement of Reasons is also being made available.

**PUBLIC HEARING**

The Energy Commission will consider adopting the revised Section 1609 at a public hearing to be held on:

**Wednesday, May 13, 2015**  
10:00 a.m.  
California Energy Commission  
1516 Ninth Street  
Art Rosenfeld Hearing Room  
Sacramento, California  
(Wheelchair accessible)

Audio for the May 13, 2015, adoption hearing will be broadcast over the Internet.

If you have a disability and require assistance to participate in these hearings, please contact Lou Quiroz at (916) 654-5146 at least 5 days in advance.

At this hearing, any person may present statements or arguments relevant to the proposed action. Interested persons may also submit written comments (see below).

## **PUBLIC COMMENT PERIOD/WRITTEN COMMENTS**

The public written comment period for the 15-Day Language will be from and including **April 24, 2015**, through and including **May 9, 2015**.

Any interested person may submit written comments on the proposed regulation. Written comments will also be accepted and considered for the Energy Commission adoption hearing if they are received by **10 a.m. on May 13, 2015**. Written comments shall be e-mailed to [docket@energy.ca.gov](mailto:docket@energy.ca.gov) and mailed or delivered to the following address:

California Energy Commission  
Docket No. 12-AAER-1  
Docket Unit  
1516 Ninth Street, Mail Station 4  
Sacramento, California 95814-5504

All written comments must indicate **Docket No. 12-AAER-1**. When comments are e-mailed on behalf of an organization, the comments should be a scanned copy of the original on the organization's letterhead and include a signature of an authorized representative. Please copy [John.Nuffer@energy.ca.gov](mailto:John.Nuffer@energy.ca.gov).

## **BACKGROUND**

On August 29, 2014, the Office of Administrative Law published the Notice of Proposed Action for the proposed Section 1609 in the California Regulatory Notice Register. The NOPA announced that the Energy Commission would consider adoption of regulations to establish an administrative enforcement process for the *Appliance Efficiency Regulations*. The NOPA announced a public hearing date of October 20, 2014, and provided for a comment period of more than 45 days. A revised NOPA was posted on September 2, 2014, indicating a change in hearing time from 10 a.m. to 2 p.m. on

October 20, 2014.

The Energy Commission received written and oral comments from several stakeholders on the proposed regulations, and considered these comments carefully.

On November 17, 2014, the Energy Commission adopted the Express Terms published on August 29, 2014, with a minor change to the manner in which a Notice of Violation shall be served as specified in the proposed section 1609(c). The Energy Commission initially found this to be a non-substantial change pursuant to Government Code section 11346.8(c) and section 40 of Title 1 of the California Code of Regulations.

After adoption, the Energy Commission prepared a Final Statement of Reasons and submitted the final rulemaking package to the Office of Administrative Law on March 2, 2015. On April 13, 2015, the Energy Commission withdrew the regulation from consideration by the Office of Administrative Law (OAL), based in part on concern expressed by OAL that the post-notice modification to the proposed section 1609(c), clarifying the manner in which a Notice of Violation shall be delivered, was a substantial change requiring 15-day notice before adoption. OAL also expressed concern that the proposed section 1609(b)(3)(B), addressing consideration of the history and persistence of violations in the calculation of administrative penalties, lacked clarity.

The purpose of this notice is to provide for 15-day public notice and comment of revisions to the Express Terms for the proposed Section 1609 to address the concerns raised by OAL.

## **PROPOSED 15-DAY LANGUAGE**

The proposed amendments to the Express Terms (15-Day Language) are available on the Energy Commission website, at

<http://www.energy.ca.gov/appliances/enforcement/documents/index.html>.

Because the originally proposed language was all newly-adopted the 15-Day Language changes to the originally-proposed Language are indicated by strikethrough (~~example~~) for deleted language and underline (example) for added language. The 15-Day Language changes include:

1. Clarifying the manner in which a Notice of Violation shall be delivered in the proposed section 1609(c);
2. Clarifying that the seven-year limitation in the proposed section 1609(b)(3) applies only to the consideration of the history of past violations by the responsible party; and

3. Clarifying that consideration of the “number of violations” refers to those violations arising from the course of conduct that is the subject of the enforcement proceeding.

## **ADDENDUM TO INITIAL STATEMENT OF REASONS**

An Addendum to the Initial Statement of Reasons has been posted to:

<http://www.energy.ca.gov/appliances/enforcement/documents/index.html>.

This explains the reason for limiting consideration of the history and persistence of a violator's past violations to those violations occurring in the previous seven years before the violation that is the subject of the enforcement action.

## **CONTACT PERSONS**

Inquiries concerning the proposed regulations may be directed to:

John Nuffer, Project Manager  
Appliances & Existing Buildings Office  
California Energy Commission  
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Sacramento, California 95814  
Telephone: (916) 653-5851  
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The backup contact person for these inquiries is:

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Office of Chief Counsel  
California Energy Commission  
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## **PUBLIC ADVISER**

The Commission's Public Adviser's Office is available to assist any person who wishes to participate in this proceeding. For assistance from the Public Adviser's Office, please call (916) 654-4489, or toll-free in California at (800) 822-6228, or email [publicadviser@energy.ca.gov](mailto:publicadviser@energy.ca.gov).

## **NEWS MEDIA INQUIRIES**

News media inquiries should be directed to the Media and Public Communications

Office at (916) 654-4989, or by e-mail at [mediaoffice@energy.state.ca.us](mailto:mediaoffice@energy.state.ca.us).

## **AVAILABILITY OF DOCUMENTS CONCERNING THIS RULEMAKING**

To obtain a copy of any documents relating to this rulemaking, please visit the Commission's website at:

<http://www.energy.ca.gov/appliances/enforcement/documents/index.html>.

or contact John Nuffer as indicated above at (916) 653-5851.

Additionally, the Commission has available all the information upon which the proposed regulations are based; copies can be obtained by accessing the above website or contacting the Docket Office at [DOCKET@energy.ca.gov](mailto:DOCKET@energy.ca.gov) or by calling (916) 654-5076.

The Energy Commission will have the entire rulemaking file available for inspection and copying throughout the rulemaking process at its office at the address above.

**Note: the California Energy Commission's formal name is the State Energy Resources Conservation and Development Commission.**